

REMARKS

I. Status of Claims

Claims 23-55 are pending. Claims 23-25, 28, 29, 32-37, and 40-55 have been rejected. Claims 26, 27, 30, 31, 38, and 39 have been objected to. Applicants respectfully traverse the outstanding rejection of claims 23-25, 28-29, 32-37, and 40-55 and request reconsideration of the application.

II. Rejection under 35 U.S.C. § 103

The Examiner has rejected claims 23-25, 28, 29, 32-37, and 40-55 under 35 U.S.C. § 103 as obvious over WO 97/49378 to Terranova et al. ("Terranova") for the reasons of record. The Examiner alleges that Terranova "teaches the addition salts of the pyrazole[1,5-a]pyrimidine compound" and that such compounds further can be "formed with an acid or with a base (see col. 2, lines 5-7), which implies that the addition salts of the compound [are] generated with the cationic part of the compound." Final Office Action at 3. From this, the Examiner then concludes that "the person of ordinary skill in the art would expect such a compound can be used as a neutral compound (tertiary amine) or in its salt form (quaternary amine or cationic form)." *Id.* Applicants disagree.

In order to establish a *prima facie* case of obviousness, the Examiner must demonstrate, among other things, some suggestion or motivation in the reference itself or in the knowledge generally available to those of ordinary skill in the art to modify the reference teaching with a reasonable expectation of success. M.P.E.P. § 2143. This the Examiner has not done. Given the structural and reactive differences between the reference compound (a tertiary amine) and the inventive compound (a quaternary

ammonium salt), the reference provides no suggestion or motivation to make the suggested modification.

Applicants respectfully assert that the Office has incorrectly equated neutral compounds (i.e., free base form) with tertiary amines. While tertiary amines may indeed exist as free bases, tertiary amines may also exist in salt form. Thus, even assuming Terranova suggests that formula (I) of the reference compound may exist as a salt, this teaching in no way implies the tertiary amine of Terranova would be a quaternary amine. To the contrary, one of ordinary skill in the art, when presented with the notion that a tertiary amine can exist in salt form, would expect just that – a tertiary amine salt – and not a quaternary ammonium salt as suggested by the Examiner.

The Examiner has simply not established any support, either in the Office Action, the reference teachings, or in the general knowledge available to those of ordinary skill in the art, for the notion that the reference compound would somehow transform itself into a quaternary amine when present as a salt. Due to their basic nature, unsaturated primary, secondary, and tertiary amines can all exist as salts when reacted with acids, as suggested by Terranova at col. 2, lines 5-7. Vollhardt, K. P. C. & Schore, N.E., ORGANIC CHEMISTRY 832-33 (2d ed. 1994). Applicants therefore maintain that the Examiner has failed to establish that quaternary amines, as claimed instant application, are obvious over or suggested by primary, secondary, and tertiary amines, whether in the free base or the salt form.

As the Examiner has failed to establish that the cited reference teaches or suggests the quaternary amine as claimed, Applicants respectfully request reconsideration of this application.

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III. Conclusion

Applicants respectfully request that this Response be considered by the Examiner, placing claims 23-55 in condition for allowance.

Furthermore, Applicants respectfully point out that the final action by the Examiner presented some new arguments as to the application of the art against Applicant's invention. It is respectfully submitted that this Response allows the Applicants to reply to the final rejections and place the application in condition for allowance.

Finally, Applicants submit that the entry of this Response would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

In view of the foregoing remarks, Applicants submit that this claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicants therefore request the Examiner's reconsideration of the application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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